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Committee on the Rights of Persons with Disabilities
Thirteenth session

Summary record of the 191st meeting
Held at the Palais des Nations, Geneva, on Friday, 10 April 2015, at 10 a.m.

Chairperson: Ms. Cisterna Reyes

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 35 of the Convention (*continued*)

Initial report of the Cook Islands (continued) (CRPD/C/COK/1; CRPD/C/COK/Q/1 and Add.1)

1. At the invitation of the Chairperson, the delegation of the Cook Islands took places at the Committee table.

Articles 11–20

2. **Ms. Numanga** (Cook Islands), replying to questions posed at the previous meeting, said that the Joint National Action Plan for Disaster Risk Management and Climate Change Adaptation 2011–2015 made specific provision for vulnerable groups, including older persons and persons with visual or mobility impairments. In partnership with the National Disability Council, the disaster risk management authorities had undertaken a mapping exercise to identify the locations of persons with disabilities on all inhabited islands of the archipelago, with a view to guaranteeing them the necessary assistance in the event of an emergency. Persons with disabilities had been interviewed as part of the exercise, and all data collected were being incorporated in the Cook Islands emergency management geoportal.

3. Her Government was aware of the need to align the definition of disability contained in national legislation with that in the Convention. Working groups were due to be established to coordinate the review process, and persons with disabilities and their organizations would provide key input.

4. Personal assistance of the kind envisaged under article 19 of the Convention was not currently available in the Cook Islands. The responsibility of care lay solely with family members, although caregiver and infirm allowances were paid subject to presentation of the required medical reports. However, her Government recognized the need to improve its services so that persons with disabilities could be educated, employed and included in community activities in their country of origin, instead of having to migrate to New Zealand or Australia along with their families, as was currently often the case.

5. **Ms. Henry** (Cook Islands) said that her Government had already begun reviewing the Entry, Residence and Departure Act 1971-72. The review process would address the provisions regulating the entry of persons with mental impairments, which currently required the approval of the health-care authorities.

6. To tackle issues of violence against persons with disabilities, her Government used a twin-track approach that combined disability-specific action by the Disability Division of the Ministry of Internal Affairs with action by mainstream bodies dealing with domestic violence. A family law bill providing comprehensive protection against all forms of violence in domestic settings was currently before the relevant select committee and, once passed, would empower the authorities to issue safety orders for the protection of vulnerable persons in such environments. The bill promoted an inclusive approach to problem resolution in which all family members, including children, could contribute to decision-making. The situation of persons with disabilities was addressed directly in specific provisions designed to guarantee their safety within the family unit and protect them against all forms of abuse, whether psychological or physical.

7. The Crimes Act 1969 had been extensively reviewed with assistance from the Attorney General's Office of Australia. Outdated provisions had been adjusted and an amendment bill was ready to be submitted to Parliament. However, although the merit of

waiving the absolute prohibition on abortion in cases where pregnancy was the result of sexual violence was acknowledged, and the possibility had been widely debated, abortion remained a criminal offence in the current text of the amendment bill. With regard to protection against forced sterilization, in cases where persons with disabilities required medical intervention the health authorities were required to follow rigorous informed consent procedures under which both patients and their guardians were consulted, in line with the constitutional provisions on protection against cruel and unusual treatment.

8. With regard to the use of substitute decision-making in judicial proceedings, she wished to clarify that persons with mental impairments were guaranteed access to justice but that, if they did not have legal counsel, the courts were empowered to appoint a legal officer to represent their interests. Although there were currently no plans for legislative change, the Ministry of Internal Affairs recognized the importance of awareness-raising and advocacy in respect of supported decision-making for persons with disabilities and would continue to ensure that their right to equality before the law, as established in article 64 of the Constitution, was respected. In cases where persons with disabilities faced criminal charges, the authorities adopted a tightly coordinated approach in which various key agencies, including the Ministry of Internal Affairs, the Crown Law Office, the police force, the probation service and the NGO Punanga Tautura Incorporated, were involved.

9. Although the Cook Islands had its own prison service and the Constitution provided for the appointment of Cook Islands judges, currently the higher courts were presided over by retired judges from New Zealand. In addition to the ongoing training on human rights provided to all judges and justices of the peace, specialized training on domestic violence was made available, with support from the Pacific Prevention of Domestic Violence Programme. Furthermore, prison officers, probation officers and justices of the peace participated in training programmes offered by State agencies in Australia and New Zealand. She was not aware, however, of any programmes focused exclusively on the needs of persons with disabilities.

10. **Mr. Mitchell** (Cook Islands), countering the suggestion that persons with disabilities were somehow being encouraged to leave the Cook Islands to receive attention in New Zealand in order to alleviate the burden of responsibility on the State, said that, in reality, depopulation was a big problem. The lack of specialized medical services was just one of the manifold incentives to migration that his Government was endeavouring to remedy, despite its limited resources.

11. Government policy for access to information and communication technologies was outlined in the State party's replies to the list of issues (CRPD/C/COK/Q/1/Add.1). The Ministry of Education ran distance learning programmes, including specific inclusive learning programmes for children with disabilities living on the outer islands, while the University of the South Pacific offered satellite and off-campus inclusive learning programmes for older students.

12. Although expanding rapidly, Internet and mobile telephony services remained a monopoly business, a situation which kept costs among the highest in the Pacific region. The fact that English was not always the first language on the outer islands, where various Maori dialects were spoken, and that the populations of those islands were very small was also a considerable practical impediment. However, his Government was fully aware of the potential benefits of emerging technologies for persons with disabilities and would give the Committee's suggestion regarding the use of existing systems from New Zealand or Australia due consideration.

Articles 21–33

13. **Mr. Tatić** asked whether the delegation could share some information about the accessibility of tourism in the Cook Islands. He encouraged the State party to investigate the possibility of using different sources of international aid to help to develop the specialized services that were vital to its efforts to curb depopulation. In that connection, he asked how the Government ensured that all international aid received was provided in an accessible and inclusive manner.

14. **Mr. Buntan**, noting that access to Braille materials produced in Australia and New Zealand would be very beneficial to people in the Cook Islands even though it was not an exclusively English-speaking nation, given the constraints on local production, asked whether the State party planned to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled in order to enhance access to education and employment for persons with disabilities, and, if so, when it would do so.

15. He said that he would welcome additional information about the role of the Government's focal point for disability. In particular, he wished to know whether it was an interministerial body and whether it was required by law to include members of representative organizations of and for persons with disabilities in its work. He was aware that complaints regarding discrimination could be filed with the Ombudsman and wondered whether the Ombudsman played a role in monitoring the effective implementation of the Convention in the Cook Islands.

16. **Mr. Kim** Hyung Shik said that it seemed to him as if the conceptualization of rehabilitation services in the Cook Islands was informed largely by medical models of disability. He wondered how comprehensive the State party's rehabilitation services were, as it could not be easy to set up community-based rehabilitation programmes on sparsely populated islands scattered over a large expanse of ocean. Lastly, he invited the delegation to comment on whether the medical treatment of disability would be supplemented by vocational rehabilitation, which would facilitate the employment of persons with disabilities.

17. **Ms. Degener**, noting that access to education and the quality of education were reported to vary greatly from one island to another, said she would appreciate further information on the measures taken by the Government to ensure equal educational opportunities for students on all the State party's islands. In common with many other countries with small populations, the Cook Islands did not have the large institutions and special schools that the Committee regarded as an impediment to the enjoyment of human rights by persons with disabilities. She nonetheless wished to know whether the Government viewed segregated education as a form of discrimination.

18. **Ms. Peláez Narváez** requested confirmation that all persons with disabilities in the Cook Islands, including persons with intellectual or psychosocial disabilities, had the right to marry and form a family. She asked whether the Government planned to offer longer maternity leaves, in particular for mothers who themselves or whose children had disabilities. Regarding article 24, she wished to know what measures the Government intended to take to ensure that children with disabilities attended school. She also wished to know what steps had been taken to meet the needs of what the Committee on the Rights of the Child had referred to in its concluding observations on the initial report of the Cook Islands (CRC/C/COK/CO/1) as a growing number of children in need of mental health assistance. Lastly, since the State party did not have specialized sexual and reproductive health services for adolescents, she wondered what steps it envisaged taking to deal with its high rates of teenage pregnancy.

19. **Mr. Langvad** asked when the Cook Islands planned to ensure that all persons, including those considered to be of unsound mind, could exercise their right to vote. He enquired what the current level of caregivers' allowance was and what other payments persons with disabilities could receive to cover disability-related expenses. Since educating children with disabilities made them the smallest burden possible on the State party's economy, it would be interesting to hear how teachers were trained to deal with such children in mainstream schools and whether that training took place throughout the Cook Islands, through distance learning or in Australia and New Zealand. He asked how much money was spent not only making school facilities physically accessible, but also providing sign language interpretation for the few students who needed it. Lastly, he noted that the State party's ability to draw on the large body of supported communication material developed in English gave it a considerable advantage.

20. **Mr. Basharu** asked how the State party could use its relationship with New Zealand to strengthen its organizations of and for persons with disabilities, whose members were often required to travel to New Zealand to seek funding and partnership opportunities. He requested a time frame for achieving what had been set out in paragraphs 137 to 143 of the State party's initial report regarding the implementation of article 21 of the Convention. He enquired what measures were being taken or were planned to provide adequate, effective and accessible health-care services for persons with disabilities and whether sign language interpretation was available for deaf persons in medical centres.

21. **Ms. Kingston** asked whether the State party had taken any measures to facilitate the difficult transition of persons with disabilities from education to the open labour market. She wished to know whether they could really choose their own professions and whether there were any laws prohibiting employment-related discrimination on grounds of disability. Regarding library collections in the Cook Islands, she wondered whether they included books in easy-to-read formats, for example, or digital resources accessible to persons with disabilities.

22. She welcomed the Government's plan to develop a comprehensive statistical database. In that connection, she wished to know whether the State party's census questionnaire elicited the responses that made possible an accurate depiction of what had been described as complex population movements. Lastly, she would appreciate additional information on the timeline for implementation of the Disability Inclusive Development Policy and the planned involvement of persons with disabilities themselves in monitoring the progress made.

23. **The Chairperson**, speaking in her personal capacity, noted that the delegation had yet to provide information on the procedure that applied when a person who had been found to lack legal capacity by reason of a psychosocial or intellectual disability was involved, as perpetrator or accessory, in criminal proceedings. She asked whether plans to decriminalize sexual intercourse with any woman or girl who was an "idiot or imbecile" were not tantamount to legalizing rape. Lastly, she enquired what measures were being considered to ensure that persons with disabilities, who were often required to vote in the presence of a returning officer, could exercise their right to cast a secret ballot.

The meeting was suspended at 11.10 a.m. and resumed at 11.35 a.m.

24. **Ms. Numanga** (Cook Islands) said that the Ministry of Internal Affairs took a cross-sectoral approach to its work as the Government's focal point for disability, coordinating relevant programmes in cooperation with the other ministries, the Office of the Prime Minister and the National Disability Council. The Ministry would designate the independent mechanism to monitor the implementation of the Convention. Needless to say, persons with disabilities, as well as the National Disability Council, would be very much

involved in the designation of the mechanism and in its work. The mechanism was expected to be in place by late 2016.

25. Although it was true that methods of treating persons with disabilities in the Cook Islands had traditionally been medically-based, community-based rehabilitation that would make it possible to address social issues was being introduced.

26. The Ministry of Education ensured that instructional materials were sent to schools on the main island and the outer islands. They were flown to the larger and more heavily populated islands of the Southern Group and sent by ship, when space was available, to the sparsely populated atolls of the Northern Group. Her Government regarded school segregation as a form of discrimination. For that reason, the policy of the Ministry of Education was to include children with disabilities in mainstream schools. Teachers' aides helped facilitate that process. In addition, the Ministry's inclusive education adviser ran regular training sessions on disability issues for teachers. No figures were available on the proportion of the national budget allocated to inclusive education. Her Government acknowledged, however, that more funding was required for International Sign interpretation in classrooms and for reading materials in Braille, not only in schools, but also in public libraries.

27. The policy on mental health that was currently being developed would address issues affecting both adolescents and adults. Nurses visited schools, providing children with disabilities with the services they needed. The Cook Islands had a reproductive health strategy under which services were provided to women and girls with disabilities on an equal basis with others.

28. There were no immediate plans to amend the Electoral Act 2004 in order to provide for voting secrecy for persons with intellectual or psychosocial impairments. They would therefore continue to be accompanied by a returning officer when casting their ballots.

29. The monthly allowances paid to caregivers and to persons with disabilities themselves amounted to 165 New Zealand dollars each. Other financial assistance was available, including help with the purchase of wheelchairs and assistive devices where possible. In addition, her Government disbursed grants for the building of accessible toilet and bathroom facilities and the installation of ramps and railings in residential homes.

30. Her Government acknowledged the importance of sign language and Braille for persons with hearing and visual impairments, respectively, and also the current scarcity of relevant services. Despite its limited resources, it would endeavour to investigate external sources of potential support, including the possibility of bringing in professional trainers from overseas. She could not, however, give any indicative time frame for that exercise.

31. With regard to data collection, the national census would contain questions on disability and the resulting disaggregated data would be included in the national disaster management disability mapping database. The Disability Inclusive Development Policy would run until 2019 and was designed to improve disability mainstreaming in government policy. The information contained in the database to be established under the Policy would be readily accessible by all ministries for use in policy development, but confidentiality of personal information would be maintained.

32. **Ms. Henry** (Cook Islands) said that measures had been taken to ensure effective access to justice for persons with disabilities on an equal basis with others and to safeguard criminal defendants with disabilities, including the provision of procedural and age-appropriate accommodations and of free legal aid for vulnerable persons without legal representation. The review of the Crimes Act had included a robust consultation process involving NGOs and civil society. The Crimes Act Amendment Bill 2013 would address any lacunae in the existing legislation. Pursuant to the Bill, disability of the victim would be

regarded as an aggravating circumstance in respect of sexual offences. A special division of the police force dealt with domestic violence and provided support to victims with disabilities.

33. With regard to education, she wished to highlight the steps taken to introduce e-learning courses for children, including those with disabilities, living on the more remote islands. More work was required, however, to address the disparity in resources between Rarotonga, the main island, and the other islands.

34. Children in the Cook Islands were brought up by their parents, extended families and local communities. That communal approach to child-rearing allowed women, including those with disabilities, to travel to Rarotonga for employment while their children remained on their respective home islands. All women, including those with disabilities, were entitled to six weeks' paid maternity leave under the Employment Relations Act 2012, and public servants were also entitled to other types of leave, such as compassionate and special leave.

35. The Employment Relations Act expressly prohibited discrimination on grounds of disability. The Ministry of Internal Affairs had taken steps to facilitate the transition of persons with disabilities from education to the labour market and conducted regular public awareness-raising campaigns on their rights in the workplace.

36. **Mr. Mitchell** (Cook Islands) said that citizens of the Cook Islands were open and welcoming and would spare no effort to ensure that tourists with disabilities fully enjoyed their visit to the country. Further information on specific measures taken by the Tourist Board to ensure that persons with disabilities had access to sporting, recreational and tourism venues would be provided at a later date. His Government would seek to strengthen its partnerships and cooperation with New Zealand and Australia so as to improve access to alternative means of communication for persons with disabilities and would strongly consider ratifying the Marrakesh Treaty.

37. **Ms. Numanga** (Cook Islands) stressed that persons with disabilities were highly valued members of society in the Cook Islands and that her Government was fully committed to implementing the Convention. The Cook Islands was a small State with limited resources, but every effort would be made to mainstream disability in national policies and involve a wide range of stakeholders in the implementation of national disability programmes.

38. **Ms. Kingston** (Country Rapporteur) thanked the delegation for the constructive and open dialogue. She said that developments such as the recent organization of Braille and International Sign training sessions and the updating of national legislation were most welcome, as was the Government's willingness to explore the professionalization of personal assistance, although further efforts would be required to secure full compliance with the Convention. She emphasized the importance of tackling depopulation and urged the State party to share lessons learned with other countries experiencing similar difficulties, such as Greenland, noting that a balance must be struck between preserving the rich island culture and heritage of the Cook Islands and promoting and protecting the rights of persons with disabilities.

39. **The Chairperson** said that she welcomed the State party's proactive approach to disability issues and looked forward to receiving additional written replies in due course, particularly information concerning the accessibility of the tourism sector.

The meeting rose at 12.25 p.m.